

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 6637 of 2007(M)

PETITIONER:

**V.V.SREEHARSHAN, AGED 54,
MANAGING PARTNER, CHIRANJANA TRAVELS,
CHITTATTUKARA, VADAKKEKARA P.O., NORTH PARAVUR.**

**BY ADV. SRI.P.GOPALAKRISHNA MENON,
SRI.M.JITHESH MENON.**

RESPONDENTS:

- 1. THE REGIONAL TRANSPORT AUTHORITY,
ERNAKULAM.**
- 2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY, ERNAKULAM.**

BY SR. GOVT. PLEADER SMT. M.K. PUSHPALATHA.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 06/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

W.P.(C). NO.6637/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE APPLICATION FOR REGULAR PERMIT FILED BY THE PETITIONER IN THE PRESCRIBED FORM P.ST.S.A. DTD. 14/03/2006.

EXT.P.2: COPY OF THE COVERING LETTER FILED BY THE PETITIONER DTD. 14/03/06.

EXT.P.3: COPY OF THE ORDER OF THE R.1. DTD. 18/07/06.

EXT.P.4: COPY OF THE JUDGMENT IN MVAA NO. 517/06 DD. 31/10/06.

EXT.P.5: COPY OF THE ORDER OF THE R.1. DTD. 20/12/2006.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR,J.

WP(C)NO.6637 OF 2007-M

Judgment

The petitioner applied for a regular permit on the route Pooyappilly-Thevara Junction. The said application was rejected by the RTA, Ernakulam by Ext.P3 order dated 18.07.2006. The petitioner challenged the said order by filing MVAA No.517/06 before the STAT. The STAT allowed the appeal and ordered to grant permit on the route Pooyappilly-Kaloor Bus stand, subject to settlement of timings. The RTA, which met on 20.12.2006, considered the said Judgment and by Ext.P5 proceedings, decided to adjourn the application of the petitioner for permit for filing an appeal against Ext.P4 judgment of the STAT. This Writ Petition is filed, challenging Ext.P5. The petitioner submits, the RTA has to implement the order of the STAT.

2. I heard the learned Government Pleader also. He points out that the route in question violates a nationalisation scheme and therefore, the judgment of the STAT is unsustainable. Under the Motor Vehicles Act, there is no further appeal against the Judgment of the STAT. The power to hear an appeal and the right to file an appeal are all statutory creations. No authority has any inherent power to hear an appeal nor any person has any inherent right to file an appeal. So, the decision of the RTA to file appeal against the order of the STAT is unsustainable. If what is meant by the RTA is filing of a Writ Petition before this Court, then also, the decision is wrong as a Writ Petition filed by the original authority against the decision of the appellate authority is not maintainable in

law. If the State is aggrieved by Ext.P4 judgment, it is free to challenge the same before this Court. As long as Ext.P4 remains in force, the RTA is bound to implement it. Accordingly, the 1st respondent is directed to pass final orders on the application of the petitioner for permit as directed by the STAT in Ext.P4 Judgment as expeditiously as possible, at any rate, within two months from the date of receipt of a copy of this Judgment.

The Writ Petition is disposed of as above.

06.03.2007

K.BALAKRISHNAN NAIR,JUDGE

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